



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

LNO/170228

PRELIMINARY RECITALS

Pursuant to a petition filed November 20, 2015, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Milwaukee Early Care Administration - MECA in regard to Other, a hearing was held on December 16, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the petitioner timely appealed a lien docketed for an unpaid child care overpayment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: Jashema Wallace

Milwaukee Early Care Administration - MECA
Department of Children And Families
1220 W. Vliet St. 2nd Floor, 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On November 21, 2014, the Department sent the petitioner a notice stating that she owed \$5,109.70 under claim number [REDACTED] for child care benefits issued to her between January

19, 2014 and April 30, 2014. The petitioner did not appeal this overpayment. The notice was sent to the her current address.

3. On November 24, 2014 the Department sent the petitioner another overpayment notice stating that she owed \$5,109.70 under claim number [REDACTED] for child care benefits issued to her between January 19, 2014 and April 30, 2014.
4. On December 2, 2014 the Department sent the petitioner a repayment agreement.
5. On January 5, 2015, February 3, 2015, and March 3, 2015 the Department sent the petitioner dunning notices reminding her that she still owed \$5,109.70 under claim number [REDACTED].
6. On April 17, 2015 the Department sent the petitioner a notice stating that she owed \$5,109.70, and that they may intercept her taxes to cover that debt.
7. The petitioner has not made any payments on this child care overpayment. As of the date of hearing, the petitioner still owed the entire amount of the overpayment.
8. On October 30, 2015 the Department sent the petitioner a notice stated that a warrant has been docketed for a child care debt that she owed. The amount due was \$5,126.70. The notice went on to state that she had 20 days from the date of the notice to Request a Fair Hearing.
9. All of the above-referenced notices were sent to the petitioner's current, verified address.
10. On November 20, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

Under Wis. Stat., §49.195(3m), if a person fails to repay a public benefits overpayment, the Department may issue a warrant with the county clerk of court that will impose a lien on property owned by the debtor. The Wisconsin Administrative Code, §DCF 101.23(9) allows the Department to issue such a warrant if repayment of an AFDC or child care debt is delinquent. The person may appeal the warrant to the Division of Hearings and Appeals, but the only issues that the administrative law judge may review are whether the debt is repaid in full or whether there is mistaken identity. Wis. Adm. Code, §DCF 101.23(9)(a)5. The time limit to appeal the warrant is 20 days from the date of the notice. Wis. Adm. Code, §DCF 101.23(10)(c)3. The Division of Hearings and Appeals only has jurisdiction over appeals that are timely filed.

The notice of warrant was sent to the petitioner on October 30, 2015. The Division of Hearings and Appeals received the petitioner's Request for Fair Hearing on November 20, 2015. This is beyond the 20 day statutory time limit, and I am without jurisdiction to address whether or not the Department correctly imposed this lien.

The petitioner's argument was that she should not owe the overpayment because her children were attending that specific daycare and two of her four children were attending school. Even if her appeal of the lien were timely, that appeal would have been limited to whether the debt is repaid in full or whether there is mistaken identity. The Department nonetheless pointed out that although the daycare's address was on a numbered street, the numbered street was on the corner of [REDACTED]. The petitioner lives on [REDACTED]. The Department further added that the petitioner authorized this specific daycare before the Department paid the daycare. The Department reviewed the sign in and sign out sheets noting that the times were different, and that there was no billing for days in which the school aged children would have been in school. Even though I have no jurisdiction or authority to address the underlying overpayment, it appears to be correct.

In my review of this case I noticed that the amount of the lien was \$5,126.70. This is greater than the \$5,109.70 overpayment. I do not understand why the lien is more than the overpayment. Perhaps there was an additional docketing fee or perhaps there was a clerical error. This was not noticed or explained at the hearing. The petitioner's appeal is not timely, and I am without jurisdiction to address this issue. Nonetheless, I urge the Department to look at this, and determine whether or not there is an error. If there is an error, I encourage the Department to fix that error. Although I encourage the Department to do this, I cannot order this because I do not have jurisdiction.

CONCLUSIONS OF LAW

The petitioner's appeal of the lien docketed for an unpaid child care overpayment is untimely, and I am without jurisdiction.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of December, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 17, 2015.

Milwaukee Early Care Administration - MECA
Public Assistance Collection Unit